

Publicly supported organization rulings. The requirement of section 1.170A-9(e)(5)(i) of the regulations that an organization must have been in existence for at least one taxable year consisting of at least eight months in order to obtain a ruling or determination letter that it is not a private foundation by virtue of being described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code does not apply to section 170(b)(1)(A)(iv) organizations.

Sections 170(b)(1)(A)(iv) and (vi) of the Internal Revenue Code of 1954 contain descriptions of organizations that 'normally' receive a substantial part of their support from contributions from governmental units or the general public.

Section 1.170A-9(e)(5)(i) of the Income Tax Regulations provides that an organization must have been in existence for at least one taxable year consisting of at least eight months in order to obtain a ruling or determination letter that it is not a private foundation by virtue of being described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. When an organization does not meet this time requirement, the regulation provides that it may request a ruling or determination letter that it will be treated as a section 170(b)(1)(A)(vi) organization for the first two taxable years (or its first three taxable years, if its first taxable year consists of less than eight months). Such an advance ruling or determination letter may be issued if the organization can reasonably be expected to meet the requirements for being publicly supported during the applicable advance ruling period.

The question to be resolved is whether the 8-month requirement of section 1.170A-9(e)(5)(i) of the regulations, which is applicable to section 170(b)(1)(A)(vi) organizations, is also applicable to section 170(b)(1)(A)(iv) organizations.

Held, the 8-month requirement of section 1.170A-9(e)(5)(i) of the regulations is not applicable to section 170(b)(1)(A)(iv) organizations. Thus, a newly created organization, prior to the close of its first taxable year consisting of at least eight months, may be issued a ruling or determination letter that it is an organization other than a private foundation by virtue of being described in sections 509(a)(1) and 170(b)(1)(A)(iv) of the Code if it otherwise meets the requirements of those sections and demonstrates that it will 'normally' receive a substantial part of its support from contributions from governmental units or the general public.